

sale without complying with the provisions of this law, he may order the franchisor or offeror of the franchise to desist and refrain from the further offer or sale of the franchise unless and until the offer is made in compliance with this law. If, after issuance of an order, a request for a hearing is filed in writing by the person to whom the order is directed, a hearing shall be held. Unless the hearing is commenced within 15 business days after the request is made, or the person affected consents to a later date, the order is rescinded.]

365.

(A) A PERSON IS CIVILLY LIABLE TO THE PERSON BUYING OR GRANTED A FRANCHISE FROM HIM IF HE:

(1) OFFERS OR SELLS A FRANCHISE IN VIOLATION OF SECTION 347(A); OR

(2) OFFERS OR SELLS A FRANCHISE BY MEANS OF ANY UNTRUE STATEMENT OF MATERIAL FACT OR ANY OMISSION TO STATE A MATERIAL FACT NECESSARY IN ORDER TO MAKE THE STATEMENTS MADE, IN LIGHT OF THE CIRCUMSTANCES UNDER WHICH THEY ARE MADE, NOT MISLEADING, THE FRANCHISEE NOT KNOWING OF THE UNTRUTH OR OMISSION, ~~OR--IF--THE--FRANCHISEE~~ AND IF THE FRANCHISOR DOES NOT SUSTAIN THE BURDEN OF PROOF THAT HE DID NOT KNOW, AND IN THE EXERCISE OF REASONABLE CARE COULD NOT HAVE KNOWN OF THE UNTRUTH OR OMISSION.

(3) TO ENFORCE ANY LIABILITY CREATED UNDER THIS SECTION, AN ACTION MUST BE BROUGHT WITHIN 3 YEARS AFTER THE PURCHASE OR GRANT OF THE FRANCHISE.

(B) A PERSON WHO HAS BOUGHT OR BEEN GRANTED A FRANCHISE MAY SUE UNDER THIS SECTION EITHER AT LAW OR IN EQUITY TO RECOVER THE DAMAGES SUSTAINED BY REASON THEREOF. ~~THAT--PERSON,--IF--SUCCESSFUL,--SHALL--ALSO--BE--ENTITLED--TO--THE--COSTS--OF--THE--ACTION,--INCLUDING--REASONABLE--ATTORNEYS'--FEES.~~ THE COURT MAY ORDER THE FRANCHISOR OR SUBFRANCHISOR TO RESCIND ANY FRANCHISE AND TO MAKE RESTITUTION TO THE PERSON WHO PURCHASED OR WAS GRANTED A FRANCHISE.

(C) EVERY PERSON WHO DIRECTLY OR INDIRECTLY CONTROLS A PERSON LIABLE UNDER THIS SECTION, EVERY PARTNER IN A PARTNERSHIP SO LIABLE, EVERY PRINCIPAL OFFICER OR DIRECTOR OF A CORPORATION SO LIABLE, EVERY PERSON OCCUPYING A SIMILAR STATUS OR PERFORMING SIMILAR FUNCTIONS, EVERY EMPLOYEE OF A PERSON SO LIABLE WHO MATERIALLY AIDS IN THE ACT OR TRANSACTION CONSTITUTING THE VIOLATION, IS ALSO LIABLE JOINTLY AND SEVERALLY WITH AND TO THE SAME EXTENT AS SUCH PERSON, UNLESS THE OTHER PERSON WHO IS SO LIABLE HAD NO KNOWLEDGE OF OR REASONABLE GROUNDS TO BELIEVE IN THE EXISTENCE OF THE FACTS BY REASON OF WHICH THE LIABILITY IS ALLEGED TO EXIST.

365A.